

Gregory H. Guillot
ggmark@radix.net
Admitted Pro Hac Vice
GREGORY H. GUILLOT, P.C.
13455 Noel Road, Suite 1000
Dallas, TX 75240
Telephone: (972) 774-4560
Facsimile: (214) 515-0411

John L. Krieger, (Nevada Bar No. 6023)
JKrieger@LRLaw.com
LEWIS AND ROCA LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
Telephone: (702) 949-8200
Facsimile: (702) 949-8389

George L. Paul
GPaul@LRLaw.com
Admitted Pro Hac Vice
Robert H. McKirgan,
RMckirgan@LRLaw.com
Admitted Pro Hac Vice
LEWIS AND ROCA LLP
40 North Central Avenue, Suite 1900
Phoenix, AZ 85004
Telephone: (602) 262-5326
Facsimile: (602) 734-3857

Attorneys for Plaintiff,
DONNA CORBELLO

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONNA CORBELLO, an individual,

Plaintiff,

vs.

THOMAS GAETANO DEVITO, an
individual, *et al.*,

Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

**PLAINTIFF'S MOTION FOR LEAVE
TO FILE CERTAIN EXHIBITS TO
PLAINTIFF'S MOTION TO COMPEL
ANSWERS TO INTERROGATORIES
AND THE PRODUCTION OF
DOCUMENTS BY DEFENDANT, DSHT,
INC. (DOC. 356) UNDER SEAL**

Plaintiff Donna Corbello, by her attorneys, and pursuant to the *Stipulated Protective Order* (Doc. 94) entered into by the parties, and the Court's *Protective Order Governing Confidentiality of Documents* entered on January 5, 2009 ("Order Regarding Sealing Requirements") (Doc. 95), herewith requests leave to file certain documents under seal as

exhibits to *Plaintiff's Motion to Compel Answers to Interrogatories and the Production of Documents by Defendant, DSHT, Inc.* (Doc. 356) ("Motion to Compel").

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to her obligations under the *Stipulated Protective Order* and *Order Regarding Sealing Requirements*, Plaintiff seeks an order permitting her to file the following documents under seal, which were produced by Defendants Frankie Valli, Robert J. Gaudio, Marshall Brickman, Eric S. Elice, DSHT, Inc., Dodger Theatricals, Inc., and/or JB Viva Vegas, LP (the "New Defendants"), and marked "CONFIDENTIAL" thereby, which she intends to attach as exhibits to her *Motion to Compel*:

- JB-0033188 to JB-0033189, consisting of a letter to Nan Basis from Loeb & Loeb, LLP;
- JB-0003837 to JB-0003838, consisting of correspondence from Defendants DSHT and McAnuff to Defendants Valli and Gaudio regarding the initial outline of *Jersey Boys*;
- JB-0033088, consisting of an email message from Ed Strong regarding DSHT funding of the La Jolla production of *Jersey Boys*;
- JB-0002503 to JB-0002525, consisting of a *Jersey Boys Production Agreement*, dated August 2, 2004;
- JB-0002479 to JB-0002483, consisting of the *Jersey Boys Writers' Agreement*;
- JB-0006110, consisting of a letter from DSHT to Bob Crewe;
- JB-0032500 to JB-0032507, consisting of a *Attachment to Judgment on Reserved Issues*, issued by the Las Angeles Superior Court in Defendant Valli's divorce proceeding; and,
- JB-0032514 to JB-0032526 and JB-0032532 to JB-0032533, consisting of instruction letters from the "Four Seasons Partnership" to Defendant, DSHT, Inc.

I. ARGUMENT

There is an exception to the normal presumption of access to judicial records, for "sealed discovery document[s] [attached] to a non-dispositive motion," such that "the usual presumption

1 of the public's right of access is rebutted.” *Kamakana v. City & County of Honolulu*, 447 F.3d
2 1172, 1179-1180 (9th Cir. 2006) (citing *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213
3 (9th Cir. 2002)). The public has less of a need for access to court records attached only to non-
4 dispositive motions because those documents are often “unrelated, or only tangentially related,
5 to the underlying cause of action.” *Id.* (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33,
6 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984)). Moreover, “public policies that support the right of
7 access to dispositive motions, and related materials, do not apply with equal force to non-
8 dispositive materials.” *Id.* (citing *Phillips*, 307 F.3d at 1213). Finally, when a district court
9 grants a protective order to seal documents during discovery, “it already has determined that
10 ‘good cause’ exists to protect this information from being disclosed to the public by balancing
11 the needs for discovery against the need for confidentiality.” *Id.* Accordingly, “good cause”
12 exists for the filing of the foregoing documents under seal.

13 Pursuant to the *Stipulated Protective Order* herein, Plaintiff has an obligation to maintain
14 the confidentiality of any document marked “CONFIDENTIAL” or “HIGHLY
15 CONFIDENTIAL” by an opposing party, and the documents identified above were so marked by
16 the New Defendants. Accordingly, Plaintiff may not file the documents with the Court without
17 obtaining an Order and/or filing them under seal. Whereas, Plaintiff’s *Motion to Compel* is not a
18 dispositive motion, the filing of these documents under seal falls within the exception to the
19 general presumption of public access carved out by the courts of this Circuit for documents
20 attached to non-dispositive motions. Accordingly, leave to file the subject documents under seal
21 should be granted.

22 **II. CONCLUSION**

23 IN VIEW OF THE ABOVE, Plaintiff respectfully requests that her present motion be
24 granted.

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1 Dated: December 18, 2010

2 RESPECTFULLY SUBMITTED:

3
4 /s/Gregory H. Guillot

5 Gregory H. Guillot

6 George L. Paul

7 John L. Krieger

8 Robert H. McKirgan

9 Attorneys for Plaintiff, Donna Corbello

10
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12 IT IS SO ORDERED:

13
14 

15 UNITED STATES MAGISTRATE JUDGE

16 DATED: December 22, 2010

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I, Gregory H. Guillot, hereby certify that on December 18, 2010, I electronically filed the foregoing document and this *Certificate of Service* with the Clerk of Court using the CM/ECF system which will send notifications of such filing to the following:

L. Bradley Hancock
Christopher B. Payne
Greenberg Traurig, LLP
1000 Louisiana
Suite 1800
Houston, TX 77002

Booker T. Evans, Jr.
Greenburg Traurig, LLP
2375 East Camelback Road
Suite 700
Phoenix, AZ 85016

Alma Chao
Greenburg Traurig, LLP
3773 Howard Hughes Parkway
Suite 500 North
Las Vegas, Nevada 89169

Attorneys for Thomas Gaetano DeVito

Daniel M. Mayeda
LEOPOLD, PETRICH & SMITH, P.C.
2049 Century Park East, Suite 3110
Los Angeles, California 90067-3274

David S. Korzenik
MILLER KORZENIK SOMMERS LLP
488 Madison Avenue, Suite 1120
New York, New York 10022-5702

Samuel S. Lionel
Todd Kennedy
LIONEL, SAWYER & COLLINS
300 So. 4th Street #1700
Las Vegas, Nevada 89101

Attorneys for Defendants Frankie Valli, Robert J. Gaudio, Marshall Brickman, Eric S. Elice, Des McAnuff, DSHT, Inc., and Dodger Theatricals, Ltd.

/s/Gregory H. Guillot